IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3441 OF 2006

Shri Mangesh Tukaram Kadam
and ors. ..Petitioners

Vs.

Shri Baban Shankar Joshi and ors. ..Respondents

Mr. Ashok Tejane i/by Mr. R.B. Jagtap for petitioners.
Mr. V.S. Gokhale for respopndent Nos.1 and 2.

CORAM: B.H. MARLAPALLE, J.

Date : April 05, 2007.

P.C.:

. Though the petition was filed on 19/3/2002, for the first time challenging the decree passed by the Lower Appellate Court dismissing the suit for eviction on 17/9/1999, the petition was dismissed initially for non removal of office objections and consequently it has been restored on 31/3/2006. It was neither circulated nor was it listed for admission during the last one year and to remove the office objections three weeks time was granted.

. Be that as it may, the impugned judgment and

order passed by the Lower Appellate Court allowing Civil Appeal No.1179 of 1996 can be challenged by filing a Civil Revision Application under Section 115 of C.P.C. and when such a statutory remedy is available, this petition need not be entertained, following the view taken by this court in Writ Petition No.4138 of 2006 decided on 24/8/2006.

. Hence, the petition is disposed as such with liberty to file a Civil Revision Application. The period of pendency of this petition shall be taken into consideration for delay condonation, if any, if the Civil Revision Application is moved before this court within a period of four weeks from today.

(B.H. Marlapalle,J.)